

Introduced by Senator Block

January 5, 2016

An act to amend Section 422 of the Penal Code, relating to criminal threats.

LEGISLATIVE COUNSEL'S DIGEST

SB 821, as amended, Block. Crimes: criminal threats.

Existing law requires that a person who willfully threatens to commit a crime ~~which~~ *that* will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, be punished by imprisonment in ~~the~~ a county jail not to exceed one year, or by imprisonment in the state prison.

This bill would instead require that any person who willfully threatens to commit a crime against another person or at a location or event ~~which~~ *that* will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, be punished by imprisonment in ~~the~~ a county jail not to exceed one year, or by imprisonment in the state prison. The bill would provide that a person

threatens *to commit a crime against* another person if, on its face and under the circumstances in which a threat is made, the threat is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety. The bill would also provide that a person threatens to commit a crime at a location or event, whether a public or private location event, ~~if the threat is made under circumstances where the person making the threat knew or should have known that the threat would elicit precautionary measures.~~ *if, on its face and under the circumstances in which a threat is made, the threat is so unequivocal, unconditional, immediate, and specific as to convey to a person perceiving the threat a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes the evacuation, lockdown, or closure of a campus, or the cancellation, evacuation, lockdown, or closure of an event.* By expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 422 of the Penal Code is amended to
2 read:
3 422. (a) (1) Any person who willfully threatens to commit a
4 crime against another person or at a location or event ~~which that~~
5 will result in death or great bodily injury to another person, with
6 the specific intent that the statement, made verbally, in writing, or
7 by means of an electronic communication device, is to be taken
8 as a threat, even if there is no intent of actually carrying it out,
9 shall be punished by imprisonment ~~in the~~ a county jail not to
10 exceed one year, or by imprisonment in the state prison.
11 (2) For purposes of this section, a person threatens *to commit a*
12 *crime against* another person if, on its face and under the

1 circumstances in which a threat is made, the threat is so
2 unequivocal, unconditional, immediate, and specific as to convey
3 to the person threatened, a gravity of purpose and an immediate
4 prospect of execution of the threat, and thereby causes that person
5 reasonably to be in sustained fear for his or her own safety or for
6 his or her immediate family's safety.

7 (3) For purposes of this section, a person threatens to commit
8 a crime at a location or event, whether a public or private location
9 or event, ~~if the threat is made under circumstances where the person~~
10 ~~making the threat knew or should have known that the threat would~~
11 ~~elicit precautionary measures. if, on its face and under the~~
12 ~~circumstances in which a threat is made, the threat is so~~
13 ~~unequivocal, unconditional, immediate, and specific as to convey~~
14 ~~to a person perceiving the threat a gravity of purpose and an~~
15 ~~immediate prospect of execution of the threat, and thereby causes~~
16 ~~the evacuation, lockdown, or closure of a campus, or the~~
17 ~~cancellation, evacuation, lockdown, or closure of an event.~~

18 (b) For purposes of this section, "immediate family" means any
19 spouse, whether by marriage or not, parent, child, any person
20 related by consanguinity or affinity within the second degree, or
21 any other person who regularly resides in the household, or who,
22 within the prior six months, regularly resided in the household.

23 (c) "Electronic communication device" includes, but is not
24 limited to, telephones, cellular telephones, computers, video
25 recorders, fax machines, or pagers. "Electronic communication"
26 has the same meaning as the term defined in Subsection 12 of
27 Section 2510 of Title 18 of the United States Code.

28 SEC. 2. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.